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August 12, 2019

Ms. Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
1220 Senate Street
P.O. Box 11629
Columbia, SC 29211

RE: Michael and Nancy Halwig and Stephen and Beverly Noller v. Daufuskie
Island Utility Company, Inc.
SC Public Service Commission Docket No.: 2018-364-WS
NMRS File Nos.: 54041/09000 and 055561/09000

Dear Madam:

Enclosed please find the original and one copy of a Notice of Appeal in the above-referenced matter. Also enclosed is a Proof of Service and our firm check in the amount of \$250.00 constituting the filing fee. Please file the original and return a file-stamped copy to me in the enclosed, self-addressed, stamped envelope.

If you have any questions concerning this request, please give me a call at the telephone number listed above. I appreciate your assistance in this matter.

With best regards, I am

Very truly yours,

Newman Jackson Smith

NJS:mam
Encls.

cc: Thomas Gressette, Esq. (w/encls.)
Andrew M. Bateman, Esq. (w/encls.)
Jeffrey M. Nelson, Esq. (w/encls.)
Joseph M. Melchers, Esq. (w/encls.)
Jocelyn Boyd, Clerk, Public Service Commission of SC (w/encls.) ✓

RECEIVED

AUG 15 2019

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MAIL / DMS**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE PUBLIC SERVICE COMMISSION

Public Service Commission Docket No. 2018-364-WS

Michael and Nancy Halwig and Stephen and Beverly Noller,Appellants,

v.

South Carolina Office of Regulatory Staff, Daufuskie Island Utility Co., Inc. Respondents.

NOTICE OF APPEAL

Michael and Nancy Halwig and Stephen and Beverly Noller appeal Order No. 2019-424 dated June 12, 2019 in Docket No. 2018-364-WS of the Public Service Commission (attached as Exhibit A). On July 17, 2019 Appellants received written notice of entry of Order No. 2019-523 of the Public Service Commission denying the Appellants' motion to reconsider the June 12, 2019 Order (attached as Exhibit B). The names, mailing addresses, and telephone numbers of all attorneys of record and the names of the party or parties represented by each are presented below.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 

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Attorneys for Appellants

August 12, 2019

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(843) 727-2249
Attorneys for Respondent Daufuskie Island Utility Commission

Action Item 3PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE

ADMINISTRATIVE MATTER	<input type="checkbox"/>	DATE	<u>June 12, 2019</u>
MOTOR CARRIER MATTER	<input type="checkbox"/>	DOCKET NO.	<u>2018-364-WS</u>
UTILITIES MATTER	<input checked="" type="checkbox"/>	ORDER NO.	<u>2019-424</u>

THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE.**SUBJECT:**

DOCKET NO. 2018-364-WS - Stephen and Beverly Noller and Michael and Nancy Halwig, Complainants/Petitioners v. Daufuskie Island Utility Company, Incorporated, Defendant/Respondent - Staff Presents for Commission Consideration Stephen and Beverly Noller and Michael and Nancy Halwig, Complainants/Petitioners v. Daufuskie Island Company, Incorporated, Defendant/Respondent.

COMMISSION ACTION:

As you may recall, we had the attorneys argue the jurisdictional threshold issue before the Commission earlier this year, as to whether or not the Commission even had subject-matter jurisdiction to hear this dispute where the parties are seeking a monetary award based on a contract issue.

I'm going to move that we dismiss the case, as the Public Service Commission does not have the statutory authority to grant monetary damages, which is the relief requested in the pleadings. And as a part of the motion, I'd like to add that the Commission, of course, does have the authority to deal with service-connection and termination issues, and, therefore, as a part of the motion, the dismissal should not result in a disconnection of service to either of the Complainants' residences during the pendency of this contractual dispute. So to the extent that it is within our jurisdictional authority, I move that we stay any disconnection of service for the residences in question, while these contractual disputes are pending.

PRESIDING: RandallSESSION: RegularTIME: 12:30 p.m.

	MOTION	YES	NO	OTHER
BELSER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Recused</u>
ERVIN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
RANDALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WHITFIELD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WILLIAMS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

(SEAL)

RECORDED BY: J. Schmieding



Action Item 4

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER	<input type="checkbox"/>	DATE	<u>July 17, 2019</u>
MOTOR CARRIER MATTER	<input type="checkbox"/>	DOCKET NO.	<u>2018-364-WS</u>
UTILITIES MATTER	<input checked="" type="checkbox"/>	ORDER NO.	<u>2019-523</u>

THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE.

SUBJECT:

DOCKET NO. 2018-364-WS - Stephen and Beverly Noller and Michael and Nancy Halwig, Complainants/Petitioners v. Daufuskie Island Utility Company, Incorporated, Defendant/Respondent - Staff Presents for Commission Consideration the Complainants' Petition for Rehearing or Reconsideration.

COMMISSION ACTION:

On June 12, by Commission Order No. 2019-424, we dismissed the Complaint of the Nollers and the Halwigs against Daufuskie Island Utility Company. On June 21, the Complainants timely filed a Petition for Reconsideration and/or Rehearing. The Company did not file a response to the Petition.

The Complainants seek reconsideration or rehearing on three grounds or matters:

- 1) The Complainants state that the Commission does have jurisdiction over the matter, because DIUC has failed to provide adequate and proper water and sewer services to the Complainants. However, DIUC began providing water and sewer service to the homeowners in December of 2018. This issue has long-since been rendered moot.
- 2) The Complainants state that the Commission has jurisdiction to hear this matter in order to remedy the failure of DIUC to submit the Customer Service Agreement for approval (pursuant to S.C. Code Reg. 103-541 and 103-743) before it was entered into with Homeowners. While it is true that this Commission has broad authority over approval of contracts entered into by regulated entities, even if the Commission were to find such actions were violative of properly promulgated regulations, that would still not grant the Commission an ability it does not possess, i.e., we cannot grant monetary damages under an allegedly invalid contract, and in this Petition the Complainants are seeking monetary damages, and that would be for a court of competent jurisdiction, not a proper matter for the South Carolina Public Service Commission.
- 3) The Complainants believe the Commission has the ability to provide monetary damages to the Complainants. In fact, the Complainants cite S.C. Code Ann. Section 58-5-270 and Section 58-5-710.

Under -270, the Commission certainly does have the jurisdictional authority to hear complaints properly brought before it. However, in this case, monetary damages are being sought -- and the Commission simply does not have the authority to grant such an award.

The Commission does have authority under -710 to levy a fine or penalty against a regulated utility if the utility is failing to show cause as to why it is not taking steps to provide adequate water and sewer service. As I mentioned earlier, service has been and is continuing to be rendered to the Complainants. Even if that weren't that case, any fines or penalties levied by this Commission go into the General Fund of the State, not to the Complainants.

For these reasons, I move that the Complainants' Petition for Rehearing and/or Reconsideration should be denied in its entirety.

PRESIDING: RandallSESSION: Regular

TIME: 2:00 p.m.

	MOTION	YES	NO	OTHER
BELSER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Recused</u>
ERVIN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
RANDALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WHITFIELD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WILLIAMS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Absent</u> Military Leave

(SEAL)



RECORDED BY: J. Schmieding

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE PUBLIC SERVICE COMMISSION

Public Service Commission Docket No. 2018-364-WS

Michael and Nancy Halwig and Stephen and Beverly Appellants,
Noller,.....

v.

South Carolina Office of Regulatory Staff, Daufuskie Respondents.
Island Utility Co., Inc.,

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Michael and Nancy Halwig and Stephen and Beverly Noller, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

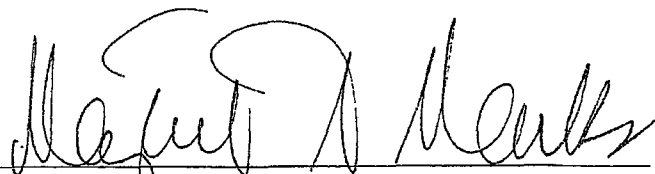
Pleadings: Notice of Appeal

Counsel Served: Attorneys for Respondents

Andrew Bateman, Esq. Jeffrey M. Nelson, Esq. Office of Regulatory Staff 1401 Main Street, Suite 900 Columbia, South Carolina 29201 <i>Counsel for ORS</i>	Thomas P. Gressette, Jr., Esq. Walker Gressette Freeman & Linton, LLC Post Office Box 22167 Charleston, SC 29413 <i>Counsel for Respondent Daufuskie Island Utility Commission</i>
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Administrative Tribunal Served: Attorney for Public Service Commission
Clerk, Public Service Commission

Joseph M. Melchers, Esq. Public Service Commission of SC 101 Executive Center Drive, Suite 100 Columbia, South Carolina 29210	Jocelyn Boyd, Clerk, Public Service Commission of SC 101 Executive Center Drive, Suite 100 Columbia, South Carolina 29210
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Margaret Marks
Administrative Assistant

August 13, 2019